

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

69cv07941- JEC-ACE

v.

RIO CHAMA STREAM SYSTEM

RAMON ARAGON, *et al.*,

SECTION 7: Rito de Tierra Amarilla,
Rio Brazos, Rutheron/Plaza Blanca,
Cañones Creek, Village of Chama

Defendants.

INTERIM PROCEDURAL ORDER
FOR THE ADJUDICATION OF WATER RIGHTS CLAIMS
IN SECTION 7 OF THE RIO CHAMA STREAM SYSTEM

This Order is entered by the Special Master pursuant to Fed.R.Civ.P. 16(b) to guide the course of the adjudication of the non-Indian and non-federal water rights claims in Section 7 (Rito de Tierra Amarilla, Rio Brazos, Rutheron/Plaza Blanca, Cañones Creek, Village of Chama) of the Rio Chama Stream System.

Having considered the comments and suggestions of interested counsel and acequia representatives, and being fully advised in the premises, it is hereby ordered that the following will govern the course of the adjudication.

I. JOINDER OF CLAIMANTS.

A. Claimants identified by the Section 7 Rito de Tierra Amarilla Hydrographic Survey of the Rio Chama Stream System shall be joined by the State by January 1, 2002. Claimants identified in the hydrographic survey reports for the remaining four subsections in Section 7 (Rio Brazos, Rutheron/Plaza

Blanca, Cañones Creek and Village of Chama) shall be joined as those surveys are completed, and within 30 days of the filing of those hydrographic survey reports with the Court. Unknown claimants shall not be joined as parties at this time.

B. Service on known Claimants shall be accomplished by the State of New Mexico *ex rel.* State Engineer ("State"). The State shall send by certified mail a packet that includes a Request for Waiver of Service, Notice of Adjudication, Complaint, and proposed Consent Order. If no Request for Waiver of Service is returned to the State within 60 days, the Claimant shall be personally served with the Summons, Complaint and other information in the packet.

C. Mailing of service packets shall begin within 30 days after known Claimants in each subsection have been joined.

D. Claimants already joined in this suit will receive the Complaint and other information in the packet with the exception of the Request for Waiver of Service.

E. The Notice of Adjudication shall be approved by the Court and shall explain the adjudication process, and the Claimant's rights and obligations under this Order, in English and Spanish.

F. A Notice of Field Office and Form Answer shall not be included in the packet, and field office sessions in Section 7 are not required to be scheduled during the year 2002. However, the State shall provide notice in the service packet of the time and location of at least two public meetings to be held in Section 7 during the spring of 2002 for the purpose of answering general questions concerning the adjudication. The State shall publish and post notices of these public meetings in Section 7 at least one week prior to the meetings.

G. The State's proposed Consent Order(s) shall set out the amount and location of irrigated

acreage, the location of the point of diversion and the purpose of use. The adjudication of irrigation water requirements and ditch-wide priority dates will be initiated by the State following the completion of the individual subfile activity.

H. During 2002, claimants may contact the state directly to advise the State of errors in ownership, mapping, or other matters. However, the State shall not be required to conduct follow up field investigations with regard to any disputed matters during 2002.

II. RESPONSES

A. Agreement.

1. Claimants who agree with all of the elements of the water rights claims as set out in the proposed Consent Order(s) may sign and return each order to the State at the following address: Rio Chama Attorney, Water Rights Protection and Adjudication Program, P.O. Box 25102, Santa Fe, NM 87504-5102. The State shall transmit the signed orders to the Court for approval and filing.

2. A signed and returned Consent Order serves as the Claimant's Answer to the Complaint. As between the State and the Claimant, the Consent Order finally adjudicates the water rights elements contained therein. Each Consent Order is subject to challenge by other Claimants during the *inter se* proceedings, which will be scheduled following the completion of subfile activity.

B. Disagreement.

Claimants who disagree with any element of the proposed Consent Order will not be required to attend a field office session during 2002, and field office sessions in Section 7 will not be scheduled during 2002. Claimants will receive a notice by regular mail of field office sessions to be held in the Spring of 2003 after the Court adopts a new procedural order superseding this interim order.

Claimants are not required to file an answer or other pleading rejecting the State's proposed Consent Order until after the entry of a new procedural order that establishes a deadline for rejecting the terms of the State's proposed Consent Orders.

III. STATUS CONFERENCE

A status and scheduling conference will be held in October, 2002. Interested counsel of record shall discuss suitable times and location, and inform the Special Master of their preference(s) by mid-September.

IV. CHANGE OF ADDRESS OR OWNERSHIP.

All Claimants, whether or not they are represented by counsel, are responsible for informing the Court of any changes in their mailing address or changes in ownership of water rights or real property associated with the rights. The information must be filed with the Court within 30 days of any change at the following address: Water Adjudication Clerk, United States District Court, 333 Lomas Blvd. N.W., Albuquerque, NM 87102, and a copy must be sent to the State at the address noted above.

V. *PRO SE* REPRESENTATION.

Claimants who intend to appear and represent themselves shall file a notice with the Court at the address noted above, and serve copies on those listed on the Section 7 Distribution List, attached. Thereafter, they will be included on the Distribution List and served with pleadings pursuant to Paragraph V.C., below. Without such notice, the Court and the parties will assume that a Claimant is represented by counsel for the acequia association with regard to issues having association wide significance, and which are taken up by the association.

VI. LIMITS ON SERVICE OF PLEADINGS.

A. This procedural Order shall be served on all Claimants, and all counsel of record who have made an appearance in the adjudication of the Rio Chama Stream System. Subsequent pleadings shall be served only on counsel identified on the "Section 7 Distribution List" attached to this Order. Others may apply to the Court for inclusion on the Distribution List, which will be amended accordingly.

B. Service of pleadings and other papers required to be served concerning subfile orders between an individual Claimant and the State shall be limited to the individual Claimant (or counsel for the Claimant) and the State.

C. Service of pleadings and other papers required to be served concerning the entire Section 7 of the Rio Chama Stream System shall be served on those included in the Distribution List. D .

Unless otherwise ordered by the Court, parties filing motions of general application shall not be required to determine if their motions are opposed prior to filing the motion. When a motion involves issues or claims limited to a particular Claimant or subfile, the movant shall determine if the motion is opposed before filing.

IT SO ORDERED.

/electronic signature/
VICKIE L. GABIN, SPECIAL MASTER